

AMENDED IN SENATE MAY 13, 2003

AMENDED IN SENATE APRIL 1, 2003

SENATE BILL

No. 68

**Introduced by Senator Alpert
(Coauthor: Senator Ducheny)**

January 17, 2003

An act to add and repeal Chapter 5.3 (commencing with Section 13368) of Division 7 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 68, as amended, Alpert. Water quality: San Diego Bay.

Under existing law, the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board and the California regional water quality control boards prescribe waste discharge requirements and exercise other functions relating to water quality.

This bill would establish the San Diego Bay Advisory Committee for Ecological Assessment. The bill would require the committee to prepare a report relating to the water quality and regulation of the San Diego Bay. The bill would require the committee to submit the report on or before December 31, 2005, to the Legislature, the San Diego Regional Water Quality Control Board, the State Water Resources Control Board, and the California Coastal Commission.

The bill would provide for the composition of the committee. The bill would prohibit the committee members from receiving any compensation or from being reimbursed for expenses incurred in the performance of their duties. The bill would authorize the committee to accept grants to carry out its reporting duties, and would require the San Diego Unified Port District to provide staffing for the committee and

to administer those grants. The bill would repeal these provisions on January 1, 2006.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
2 following:
- 3 (a) San Diego Bay's 23 square mile area and its 27 miles of
4 shoreline represent vital environmental, economic, and national
5 security resources for all of California and the nation.
- 6 (b) San Diego Bay is the heart of San Diego's tourism industry,
7 an industry that contributes more than \$5 billion annually to the
8 region and the state.
- 9 (c) San Diego Bay is home to three major shipyards and
10 numerous boatyards and marinas that represent both a major
11 economic force as well as a key part of tourism and recreation.
- 12 (d) San Diego Bay is the home of the largest port of the United
13 States Navy's Pacific Fleet, including the home port of three
14 aircraft carriers and 50 other surface ships and submarines. This
15 large concentration of ships forms the basis of an extensive shore
16 support system, including aircraft repair, ship maintenance,
17 supply, research, and other key naval services, which accounts for
18 more than \$5.5 billion in annual expenditures in San Diego County
19 alone.
- 20 (e) One study established that 27 percent of San Diego
21 County's gross regional product and 250,000 jobs are attributable
22 to San Diego Bay tideland businesses and the United States Navy.
- 23 (f) Tremendous strides have been made in cleaning up San
24 Diego Bay. Up until the 1960s, environmental laws and
25 regulations did not protect San Diego Bay from impacts from
26 sewage, garbage, and other discharges that had a detrimental
27 impact on the health of the bay. Since that time, efforts by federal,
28 state, regional, and local governments and environmental
29 organizations have led to a dramatic improvement in water quality
30 and species diversity. Whereas a 1973 study found 38 different fish
31 species in San Diego Bay, a 1999 study found 78 different fish
32 species in that bay. In addition, the generally warm and hypersaline
33 waters of south San Diego Bay offer a warm water refuge for a



number of tropical species, including green sea turtles and sea horses, making it unique among all other southern California bays.

(g) The current regulatory framework for San Diego Bay does not address adequately some basic macrolevel ecosystem matters such as the overall health of the bay and therefore does not provide a baseline to evaluate the need for additional regulation of the bay.

(h) Some decisions regarding San Diego Bay have been based on published reports that do not present an adequate basis for policy development.

~~(i) San Diego Bay presents a unique set of issues, and regulatory programs designed for other parts of the state cannot be applied to discharges into the bay.~~

(i) Extensive data collected under the Bay Protection and Toxic Hotspots Cleanup Program revealed serious contamination of portions of San Diego Bay. It is necessary to take actions in these areas to ensure restoration of marine life health to San Diego Bay.

(j) It is necessary to undertake an independent assessment of San Diego Bay for the purpose of making comprehensive decisions with regard to future ~~regulatory programs affecting~~ *actions to improve habitat and species diversity in the bay.*

~~(k) It is necessary to create a stakeholder process for the assessment of the need for, and if necessary the development of, requirements for toxicity testing in San Diego Bay.~~

(k) The San Diego Regional Water Quality Control Board has decided to allow the United States Navy to conduct an alternative toxicity monitoring and reporting program until September 2006, in lieu of carrying out acute toxicity testing pursuant to existing requirements. After September 2006, the United States Navy will be required to conduct acute toxicity testing on all stormwater discharges and will be prohibited from discharging stormwater that does not meet applicable requirements. The San Diego Regional Water Quality Control Board has authorized the United States Navy to propose a new acute toxicity standard or present evidence that toxicity testing is not necessary. While the United States Navy's willingness to undertake that effort is noted, it is not appropriate for the United States Navy to propose a new acute toxicity standard independent of other major stakeholders that would be affected by that standard.

(l) It is the intent of the Legislature that this act will support efforts to implement water quality standards and objectives in a

1 fair and equitable ~~way~~ *manner that ensures full protection of all*
2 *beneficial uses of the bay.*

3 SEC. 2. Chapter 5.3 (commencing with Section 13368) is
4 added to Division 7 of the Water Code, to read:

5

6 CHAPTER 5.3. SAN DIEGO BAY ADVISORY COMMITTEE FOR
7 ECOLOGICAL ASSESSMENT

8

9 13368. (a) The San Diego Bay Advisory Committee for
10 Ecological Assessment is hereby established.

11 (b) The committee shall prepare a report on all of the following:

12 (1) An evaluation of existing and historic data and trends in the
13 overall health of San Diego Bay, including, but not limited to,
14 trends in pollutant levels and trends in the numbers and diversity
15 of species.

16 ~~(2) An evaluation of existing provisions for the regulation of~~
17 ~~the toxicity of discharges into San Diego Bay and~~
18 ~~recommendations for their modification.~~

19 ~~(3) Recommendations for toxicity protocols, discharge limits,~~
20 ~~and model permit conditions, if the committee determines that~~
21 ~~toxicity regulation is necessary to comply with discharge limits on~~
22 ~~point sources and nonpoint sources.~~

23 ~~(4)–~~

24 (2) The identification of habitat enhancement projects in the
25 Integrated Natural Resources Management Plan for San Diego
26 Bay that may be necessary to provide increased population and
27 diversity for species within San Diego Bay.

28 ~~(5) Criteria for evaluating the effectiveness of existing and~~
29 ~~future regulatory programs.~~

30 ~~(6)–~~

31 (3) An assessment of, *and recommendations for, including*
32 *feasibility and economic practicability of*, the best available
33 technology that is economically available and the best
34 conventional pollution control technology related to stormwater
35 treatment systems meeting toxicity standards.

36 (4) *Recommendations for additional land use categories or*
37 *geographic areas where the toxicity criteria should be applied to*
38 *stormwater dischargers.*

39 (c) For the purposes of carrying out subdivision (b), the
40 committee shall consider and make use of the Integrated Natural



Resources Management Plan for San Diego Bay prepared by the United States Navy in conjunction with numerous stakeholders.

~~(d) The committee may consider additional matters it determines to be relevant to the regulation of water quality and habitat-related matters in San Diego Bay.~~

(d) Upon the request of the United States Navy, the committee may provide oversight and assistance in the Navy's development of acute toxicity standard review, as authorized by the San Diego Regional Water Quality Control Board, in approval of the National Pollutant Discharge Elimination System permits for Naval Base Point Loma, Naval Base San Diego, and Naval Base Coronado.

(e) (1) The committee shall be cochaired by the Chairperson of the San Diego Unified Port District and the Chairperson of the San Diego Regional Water Quality Control Board. The following entities may appoint one representative to the committee:

(A) *The San Diego City Council.*

(B) The City of Chula Vista.

~~(B)~~

(C) The City of Coronado.

~~(C)~~

(D) The City of Imperial Beach.

~~(D)~~

(E) The City of National City.

~~(E) The San Diego Bay Council.~~

~~(F)~~

(F) *The Environmental Health Coalition.*

(G) *The San Diego Baykeeper.*

(H) *The San Diego Audubon Society.*

(I) *The San Diego Chapter of the Surfrider Foundation.*

(J) *The Sierra Club.*

(K) The San Diego Port Tenants Association.

~~(G)~~

(I) The Industrial Environmental Association.

~~(H)~~

(M) The San Diego Convention and Visitors Bureau.

~~(J)~~

(N) Scripps Institute of Oceanography.

~~(J)~~

(O) City of San Diego Metropolitan Wastewater Joint Powers Authority.

1 ~~(K)~~
2 (P) State Water Resources Control Board.
3 ~~(L)~~
4 (Q) The California Coastal Commission.
5 ~~(2) The following persons or entities may appoint two~~
6 ~~representatives to the committee:~~
7 ~~(A)–~~
8 (2) The San Diego County Board of Supervisors *may appoint*
9 *two representatives to the committee.* One of the persons appointed
10 pursuant to this ~~subparagraph~~ *paragraph* shall be a recreational
11 boat owner who resides in San Diego County.
12 ~~(B) The San Diego City Council. One of the persons appointed~~
13 ~~pursuant to this subparagraph shall be a representative of an~~
14 ~~environmental organization active in the City of San Diego.~~
15 ~~(3) The United States Navy may appoint one nonvoting~~
16 ~~representative to the committee.~~
17 ~~(4)–~~
18 (3) *The following entities may appoint one nonvoting member*
19 *to the committee:*
20 (A) *The United States Navy.*
21 (B) *The Department of Fish and Game.*
22 (C) *The United States Fish and Wildlife Service.*
23 (D) *The National Marine Fisheries Service.*
24 (E) *The University of California at San Diego and San Diego*
25 *State University may each appoint one nonvoting member.*
26 ~~(5) The Department of Fish and Game may appoint one~~
27 ~~nonvoting member.~~
28 (f) Committee members may not be compensated for their
29 services or be reimbursed for any expenses incurred in the
30 performance of their duties pursuant to this chapter.
31 (g) (1) Staffing for the committee shall be provided by the San
32 Diego Unified Port District at the direction of the committee. The
33 committee may accept grant funds and contract for professional
34 services to carry out this chapter. The San Diego Unified Port
35 District shall administer the grants made to the committee.
36 (2) Not more than 3 percent of the total amount of money
37 received by the committee may be used to pay costs incurred in
38 connection with the administration of the grants.
39 (h) The report required by subdivision (b) shall be submitted,
40 on or before December 31, 2005, to all of the following:

1 (1) The Chairpersons of the Assembly Committee on Water,
2 Parks and Wildlife, the Assembly Committee on Environmental
3 Safety and Toxic Materials, the Senate Committee on
4 Environmental Quality, and the Senate Committee on Agriculture
5 and Water Resources.

6 (2) The San Diego Regional Water Quality Control Board.

7 (3) The state board.

8 (4) The California Coastal Commission.

9 13368.5. This chapter shall remain in effect only until January
10 1, 2006, and as of that date is repealed, unless a later enacted
11 statute, that is enacted before January 1, 2006, deletes or extends
12 that date.

